

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff	:	
	:	Criminal Case
v.	:	No. 20-CR-00239-TSE
	:	
ALEXANDA AMON KOTEY,	:	September 2, 2021
	:	
Defendant	:	5:30 p.m.
.....	:	.....

TRANSCRIPT OF PLEA HEARING  
BEFORE THE HONORABLE T.S. ELLIS, III  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFF:

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RAJ PAREKH  
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(Appearances continued on next  
page)

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5       **OFFICIAL COURT REPORTER:**

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8  
9                               **( Pages 1 - 76)**

10                           **COMPUTERIZED TRANSCRIPTION OF STENOGRAPHIC NOTES**

1 P R O C E E D I N G S

2 COURTROOM CLERK: Court calls criminal case  
3 United States of America versus Alexandra Amon Kotey, Case  
4 Number 2020-CR-239. May I have appearances, please, first for  
5 the government.

6 MR. FITZPATRICK: Thank you. Good afternoon,  
7 Your Honor. Dennis Fitzpatrick, Raj Parekh, John Gibbs, Aidan  
8 Grano-Mickelsen, and Alicia Cook on behalf of the  
9 United States.

10 THE COURT: All right. Good afternoon to you all. And  
11 for the defendant? Ms. Mertz, you're here for the defendant?

12 MS. MERTZ: Yes, Your Honor. Cadence Mertz and  
13 Brooke Rupert, Sabrina Shroff, Barry Coburn, and  
14 Marc Eisenstein on behalf of Alexandra Kotey, who is present,  
15 Your Honor.

16 THE COURT: Well, good afternoon to all of you. But  
17 Mr. Kotey is seated to your right. Is that correct?

18 MS. MERTZ: That's correct, Your Honor.

19 THE COURT: Good afternoon, Mr. Kotey.

20 THE DEFENDANT: Good afternoon.

21 THE COURT: We're gathered for the purpose of  
22 considering a plea to all eight counts of the indictment. Let  
23 me begin by asking -- I understand the parties are not in total  
24 agreement about whether any part of this proceeding should be  
25 under seal. Are you aware of that, Mr. Fitzpatrick?

1 MR. FITZPATRICK: Your Honor, my understanding, we had  
2 discussed it prior to --

3 THE COURT: Who is "we"?

4 MR. FITZPATRICK: The government, with counsel for  
5 Mr. Kotey, Ms. Shroff and Ms. Mertz, in particular. It was my  
6 understanding that we had resolved that issue and that none of  
7 today's proceedings would be under seal. It's the government's  
8 desire that this should be a completely public proceeding with  
9 nothing under seal. If the Court is interested in further  
10 argument on that, I'm happy to provide it.

11 THE COURT: All right. We'll do it on the earphones  
12 and the microphone.

13 MS. MERTZ: Your Honor, if I may. It might  
14 short-circuit that. We're not opposing holding these  
15 proceedings in public. Counsel for Mr. Kotey would simply note  
16 that having these proceedings public is, we believe, a safety  
17 concern for Mr. Kotey and his family; however, we are not  
18 opposing the government's request to hold the hearing entirely  
19 in public.

20 THE COURT: All right. Thank you. That obviates the  
21 necessity to pursue this matter any further. It will continue  
22 as a public hearing in all respects. That includes all  
23 provisions of the plea agreement, doesn't it, Mr. Fitzpatrick?

24 MR. FITZPATRICK: It does, Your Honor.

25 THE COURT: Ms. Mertz?

1 MS. MERTZ: That's correct, Your Honor.

2 THE COURT: All right. Now, Mr. Fitzpatrick, the  
3 government has obligations under the Victims' Rights Act, and I  
4 want you to tell the Court in open court here what provisions  
5 the government has taken, and if there are victims here, the law  
6 gives victims the right to be informed of a plea. The law gives  
7 the right of victims to be present at a plea hearing and to  
8 address the Court, but they may not want to. They also have  
9 that right at sentencing and other phases.

10 What is the situation today, Mr. Fitzpatrick?

11 MR. FITZPATRICK: Your Honor, would you like me to  
12 begin by telling you which victims are here? Would you like me  
13 to name them?

14 THE COURT: Victims' families?

15 MR. FITZPATRICK: Victims' families, yes.

16 THE COURT: Yes, I would.

17 MR. FITZPATRICK: Your Honor, in the first row to the  
18 government's left, we have Mr. Art Sotloff. Next to Mr. Sotloff  
19 is -- and he is the father of Steven Sotloff. Next to  
20 Mr. Sotloff is Mr. Carl Mueller, next to him is his wife,  
21 Mrs. Marsha Mueller; they are the parents of Kayla Mueller.

22 Stepping back to the next row, at the end we have  
23 Mrs. Diane Foley, who is the mother of James Foley, we have  
24 Mr. John Foley, who is the brother of James Foley, we have  
25 Mr. Michael Foley, who is the brother of James Foley, and then

1 we have Mr. John Foley -- or Dr. John Foley, who is the father  
2 of James Foley.

3 Stepping back we have Roberta Kassig, who is related to  
4 Peter Edward Kassig. We also have in the row behind that, we  
5 have Ms. Paula Kassig and Mr. Ed Kassig, who are the parents of  
6 Peter Edward Kassig.

7 Unfortunately, Mrs. Shirley Sotloff couldn't be here  
8 today. She wanted to, but she was unavoidably detained or kept  
9 away from today. But she wanted to be here.

10 THE COURT: And I want you to be able to represent to  
11 the Court that the government has fulfilled -- has satisfied all  
12 of its obligations under the Victims' Rights Act.

13 MR. FITZPATRICK: We have, Your Honor. We began  
14 discussing this with the victims' families approximately  
15 two weeks ago. The substance, where we went through the Plea  
16 Agreement and the Statement of Facts paragraph by paragraph took  
17 place early this week. We had a group meeting with all the  
18 victim families. The Kassigs were thankfully able to join by  
19 phone. We explained the entirety of the agreement to them, we  
20 answered all of their questions. Naturally, they can speak for  
21 themselves, but the feedback that we have received is that they  
22 are in favor of today's proceedings.

23 THE COURT: All right. Now, as I see the  
24 Victims' Rights Act, Mr. Fitzpatrick, it gives the victims the  
25 right to be reasonably heard at any public proceeding in the

1 District involving release, plea, sentencing or any parole  
2 proceedings. Do you know whether any of those individuals that  
3 you've introduced want a right to address the Court at this plea  
4 hearing? Now, they'll also have the right at any sentencing,  
5 but that's not now.

6 MR. FITZPATRICK: Your Honor, we've discussed with the  
7 victims at length their ability to allocute at sentencing. No  
8 one expressed a desire to speak today. I can certainly ask that  
9 question now.

10 THE COURT: Well, confirm that for me. They have that  
11 right, and I want to know whether they want to do that now.

12 MR. FITZPATRICK: We'll do that.

13 THE COURT: They can do it now and at sentencing, but  
14 if what they intend to do is to allocute, if at all, at  
15 sentencing, then we can proceed with the plea and get on with  
16 it.

17 MR. FITZPATRICK: I understand, Your Honor.

18 THE COURT: Who is the Arabic interpreter present here  
19 today?

20 THE INTERPRETER: Good afternoon, Your Honor. Good  
21 afternoon.

22 THE COURT: Yes, good afternoon. May I have your full  
23 name, please? Give her a microphone, please.

24 THE INTERPRETER: Ghada, G-H-A-D-A, Attieh,  
25 A-T-T-I-E-H.

1 THE COURT: Yes. Ms. Attieh, you've served as an  
2 interpreter in English, in Arabic in this courtroom --

3 THE INTERPRETER: Yes, Your Honor.

4 THE COURT: -- on several occasions. Am I correct?

5 THE INTERPRETER: Yes.

6 THE COURT: And I think I ascertained then and I saw  
7 that you were able to translate from English to Arabic and  
8 Arabic to English simultaneously as it is spoken. Am I correct?

9 THE INTERPRETER: Yes, Your Honor.

10 THE COURT: So I find that you are fully competent and  
11 capable as serving as an interpreter in this case. You may  
12 administer the oath to Ms. Attieh.

13 (Oath administered by courtroom deputy clerk.)

14 THE COURT: Now, we'll find out in a few minutes how  
15 much interpretation will be needed.

16 Yes, Mr. Fitzpatrick. You've now ascertained whether  
17 any of the victim families wish to be heard today?

18 MR. FITZPATRICK: That's correct, Your Honor. And none  
19 of them wish to be heard today, but if we get to a sentencing  
20 hearing, you'll hear allocution from them at that time.

21 THE COURT: All right. Thank you. We're gathered for  
22 the purpose of hearing whether the Court accepts the plea, if  
23 Mr. Kotey determines to go through with the plea agreement.

24 Let's begin -- Mr. Kotey, would you come to the podium,  
25 please, sir. That is here. Yes, and you may remove the mask



1 because you'll be behind the screen there.

2 Good afternoon again, Mr. Kotey.

3 THE DEFENDANT: Good afternoon.

4 THE COURT: Mr. Kotey, let me first ask you whether you  
5 speak and understand English.

6 THE DEFENDANT: Yes, I speak and understand English  
7 perfectly.

8 THE COURT: Do you have any trouble doing so?

9 THE DEFENDANT: No. I'm a fluent English speaker.

10 THE COURT: So that means you read and write English as  
11 well?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. You may administer the oath and  
14 he may affirm. He may affirm.

15 (Oath administered by courtroom deputy clerk.)

16 THE COURT: Mr. Kotey, as I understand it, you intend  
17 to plead guilty to Counts 1 through 8 of the pending indictment.  
18 Is that correct?

19 THE DEFENDANT: That's correct, yeah.

20 THE COURT: There's one other preliminary matter I  
21 omitted to mention. This matter is also being made available to  
22 victims' families not for this indictment, but victims' families  
23 in the United Kingdom. Is that correct?

24 MR. FITZPATRICK: Yes, Your Honor. The phone line is  
25 open.

1           THE COURT: All right. Now, Mr. Kotey, would you tell  
2 me your full name, please, sir.

3           THE DEFENDANT: My name is Alexandra Amon Kotey.

4           THE COURT: And what is your age?

5           THE DEFENDANT: 37.

6           THE COURT: Where were you born?

7           THE DEFENDANT: London, England.

8           THE COURT: And did you attend school in London?

9           THE DEFENDANT: Yes.

10          THE COURT: What is the highest grade in school that  
11 you completed?

12          THE DEFENDANT: What you call in United States high  
13 school.

14          THE COURT: All right. And did you attend college or  
15 university?

16          THE DEFENDANT: No.

17          THE COURT: So to repeat, since you completed school in  
18 England, I assume you read and write English and speak English  
19 fluently?

20          THE DEFENDANT: Exactly.

21          THE COURT: Now, we have an Arabic interpreter here, so  
22 any question that you think that is asked - and I will be asking  
23 a number of questions - if you have difficulty understanding any  
24 of those questions and if you want anything translated for you  
25 into Arabic, you need only ask for it, and I will require it.

1 THE DEFENDANT: Yeah, that won't be necessary.

2 THE COURT: All right. Now, let me ask also, what jobs  
3 have you held in the last five years? Make it three years to  
4 begin with because I don't know where you were in the last  
5 five years.

6 THE DEFENDANT: The last three and five years I was in  
7 Syria, so that would be entering into the indictment, I guess.

8 THE COURT: All right. So in the last five years you  
9 were involved in warfare in Syria. Is that right?

10 THE DEFENDANT: That's correct.

11 THE COURT: Have you ever been employed?

12 THE DEFENDANT: Yes.

13 THE COURT: Where?

14 THE DEFENDANT: In the United Kingdom.

15 THE COURT: In what capacity?

16 THE DEFENDANT: I did very brief employment in retail.

17 THE COURT: And what did you do in retail?

18 THE DEFENDANT: I worked in a sports shop.

19 THE COURT: In London?

20 THE DEFENDANT: In London, yes.

21 THE COURT: And what was your job?

22 THE DEFENDANT: It was working on the floor of a sports  
23 store, in the Nike department.

24 THE COURT: You were selling sports products?

25 THE DEFENDANT: That's right.

1 THE COURT: Have you ever been treated for mental  
2 illness or addiction to narcotic drugs of any kind?

3 THE DEFENDANT: No.

4 THE COURT: Have you ever been treated for alcohol  
5 abuse?

6 THE DEFENDANT: No.

7 THE COURT: Are you currently taking any drug or  
8 medication, whether prescribed or otherwise?

9 THE DEFENDANT: No.

10 THE COURT: Is there any reason this afternoon,  
11 Mr. Kotey, why you would be unable to understand what is  
12 happening in this proceeding today?

13 THE DEFENDANT: No.

14 THE COURT: Do you feel all right this afternoon?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you feel as though you can make  
17 decisions about your future today?

18 THE DEFENDANT: Yes.

19 THE COURT: Have you been provided with a copy of the  
20 indictment; that is, the grand jury's charges against you in  
21 this case?

22 THE DEFENDANT: Yes.

23 THE COURT: Have you read it?

24 THE DEFENDANT: Yes.

25 THE COURT: And have you reviewed it with your counsel,

1 Ms. Mertz and Mr. Coburn and maybe others?

2 THE DEFENDANT: I've read it and we've discussed it  
3 thoroughly, yes.

4 THE COURT: All right. You say you've read it and  
5 discussed it thoroughly with your counsel?

6 THE DEFENDANT: That's correct, yeah.

7 THE COURT: Let me ask whether you're fully satisfied  
8 and -- are you fully satisfied with the advice and counsel  
9 that -- advice that your counsel has provided you?

10 THE DEFENDANT: Yes, I am.

11 THE COURT: Let me re-ask that because I clearly  
12 confused it.

13 Are you fully satisfied with the advice and counsel  
14 you've received from the lawyers that have been appointed for  
15 you in this case?

16 THE DEFENDANT: Yes, I am.

17 THE COURT: All right. There are eight counts in the  
18 indictment, and I'm going to review with you each of the eight  
19 counts and the maximum punishments that may result from your  
20 pleading guilty to those eight counts.

21 Count 1, Mr. Kotey, charges you with engaging in a  
22 conspiracy as follows: That from in and around November of 2012  
23 and continuing to on or about February 7, 2015, that you and a  
24 co-defendant, who are especially designated global terrorists  
25 and who will first be brought to and found in the United States

1 in the Eastern District of Virginia, along with Mohammed Emwazi  
2 and others, known and unknown, did conspire to seize, detain,  
3 and threaten to kill, injure, and continue to detain nationals  
4 of the United States of America while traveling outside the  
5 United States, including James Wright Foley, whose death  
6 resulted from this offense; Kayla Jean Mueller, whose death  
7 resulted from this offense; Steven Joel Sotloff, whose death  
8 resulted from this offense; and Peter Edward Kassig, whose death  
9 resulted from this offense, in order to compel a third person  
10 and a governmental organization, including but not limited to  
11 the United States of America and any part of its government to  
12 pay a monetary ransom for the release of that U.S. national, and  
13 to do and abstain from doing any act as an explicit or implicit  
14 condition for the release of that person in violation of  
15 Title 18, U.S. Code Section 1203.

16 So do you understand, Mr. Kotey, that in Count 1 you're  
17 charged with conspiracy to commit hostage taking - the hostages  
18 that I named - resulting in the death of those hostages? Do you  
19 understand that?

20 THE DEFENDANT: Yes, I understand.

21 THE COURT: And, Mr. Kotey, it's important that you  
22 understand all the possible punishments that may result from  
23 your pleading guilty to Count 1 of the indictment. If death  
24 resulted, the minimum sentence you could receive would be life  
25 in prison. You could receive, under the statute, death, but as

1 I understand it, the United States government has agreed that it  
2 will not seek imposition of the death sentence in this case.

3 That's correct, is it not?

4 MR. FITZPATRICK: That's correct, Your Honor.

5 THE COURT: All right. So the maximum penalty that you  
6 face as a result of pleading guilty to Count 1 is life in  
7 prison.

8 Now, with respect to Count 2 -- do you understand that,  
9 Mr. Kotey?

10 THE DEFENDANT: Yes, I understand.

11 THE COURT: All right. Let's go to Count 2, which is  
12 the second count you intend to plead guilty to. There you are  
13 charged with the following: That from in or about  
14 November 22nd, 2012, to on or about August 19, 2014, you and  
15 El Shafee Elsheikh, who was first brought in the  
16 Eastern District of Virginia, Mohammed Emwazi and others, known  
17 and unknown, all aided and abetted each other by -- or did seize  
18 and detain and threaten to kill, injure, and continue to detain  
19 James Wright Foley, a national of the United States of America  
20 traveling outside the United States, in order to compel  
21 James Wright Foley's parents and a governmental organization,  
22 including but not limited to the United States of America, and  
23 any part of its government, to pay a monetary ransom for the  
24 release of James Wright Foley, and to do and abstain from doing  
25 any act as an explicit or implicit condition for the release of

1 James Wright Foley, and James Wright Foley's death resulted from  
2 the commission of this offense, all a violation of Title 18,  
3 Section 1203 and 2.

4 So do you understand, Mr. Kotey, that what you're  
5 charged with in Count 2 is hostage taking resulting in the death  
6 of James Wright Foley? Do you understand that?

7 THE DEFENDANT: Yes, I understand.

8 THE COURT: And do you understand that the minimum  
9 penalty prescribed by law in these circumstances is life? You  
10 could have received death, but the government has agreed not to  
11 seek the death penalty in this case. Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: There would also be -- well, I'll cover  
14 this at the end. But there's also \$100 assessment that has to  
15 be imposed by statute for each of the eight counts.

16 There's no monetary fine, is there, Mr. Fitzpatrick?

17 MR. FITZPATRICK: Well, subject to a statutory fine of  
18 up to \$250,000. We have not agreed on a fine.

19 THE COURT: All right. Say again.

20 MR. FITZPATRICK: We have not agreed on a fine as part  
21 of the Plea Agreement.

22 THE COURT: Right. And in this Count 2, as in Count 1,  
23 you could be required to pay a punitive fine of up to \$250,000.

24 Now, Count 3, Mr. Kotey, is as follows: Count 3 says  
25 that from on or about August 4, 2013, to on or about February 7,



1 2015, you and El Shafee Elsheikh, who will first be brought to  
2 and found in the Eastern District of Virginia, and Mohammed  
3 Emwazi and others, known and unknown to the grand jury, all  
4 aided and abetted by each other, did seize, detain, and threaten  
5 to kill, injure, and continue to detain Kayla Jean Mueller, a  
6 national of the United States traveling outside the  
7 United States, in order to compel Kayla Jean Mueller's parents  
8 and a governmental organization, including but not limited to  
9 the United States of America and any part of its government, to  
10 pay a monetary ransom for the release of Kayla Jean Mueller, and  
11 to do and abstain from doing any act as an explicit or implicit  
12 condition for the release of Kayla Jean Mueller. And as the  
13 indictment alleges, Kayla Jean Mueller's death resulted from the  
14 commission of this offense in violation of U.S. Code  
15 Section 1203 and 2.

16 So do you understand that what you're charged with is  
17 hostage taking resulting in death of Kayla Jean Mueller? Do you  
18 understand that, Mr. Kotey?

19 THE DEFENDANT: I understand that.

20 THE COURT: And do you understand that, again, there's  
21 a mandatory minimum term of imprisonment of life in prison? It  
22 could be death, but the government has agreed not to seek the  
23 death penalty. You could be required to pay a punitive fine of  
24 up to \$250,000, and you will be required to pay \$100 special  
25 assessment.

1 Do you understand all of that?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Let's turn to page -- or not  
4 page -- to Count 4. In Count 4, Mr. Kotey, you're charged with,  
5 from on or about August 4, 2013, to on or about September 2nd,  
6 2014, you and El Shafee Elsheikh, who will first be brought to  
7 and found in the Eastern District of Virginia, and  
8 Mohammed Emwazi and others, known and unknown to the grand jury,  
9 all aided and abetted by each other, did seize, detain, and  
10 threaten to kill, injure, and continue to detain  
11 Steven Joel Sotloff, a national of the United States of America  
12 traveling outside the United States, in order to compel  
13 Steven Joel Sotloff's parents and a government organization,  
14 including but not limited to the United States of America and  
15 any part of its government, to pay a monetary ransom for the  
16 release of Steven Joel Sotloff, and to do and abstain from doing  
17 any act as an explicit or implicit condition for the release of  
18 Steven Joel Sotloff, and Steven Joel Sotloff's death resulted  
19 from the commission of this offense, all in violation of  
20 Title 18, U.S. Code Section 1203 and 2.

21 So do you understand, Mr. Kotey, that in Count 4 you're  
22 charged with hostage taking resulting in the death of  
23 Steven Joel Sotloff?

24 THE DEFENDANT: Yes, I understand.

25 THE COURT: And, again, the maximum or mandatory

1 minimum term of imprisonment is life in prison. And although  
2 you could have been charged and the government could have sought  
3 the death penalty, it has agreed not to do so and will not be  
4 sought in this case.

5 Next, we turn to Count 5. Count 5, Mr. Kotey, is as  
6 follows: That from in and around November 2012 and continuing  
7 to on or about February 7, 2015, you, again, and  
8 El Shafee Elsheikh, who will first be brought to and found in  
9 the Eastern District of Virginia, Mohammed Emwazi and others,  
10 known and unknown to the grand jury, did conspire to commit  
11 murder, as defined in Title 18 of U.S. Code Section 1111(a), by  
12 unlawfully killing James Wright Foley, Kayla Jean Mueller,  
13 Steven Joel Sotloff, and Edward Kassig.

14 Did I omit the count on Mr. Kassig?

15 MR. FITZPATRICK: Yes, Your Honor.

16 THE COURT: I did. That's Count 5, isn't it?

17 MR. FITZPATRICK: Yes, sir.

18 THE COURT: That's what I omitted. I'll come back to  
19 that.

20 Let me go back to that, Mr. Kotey. I inadvertently  
21 omitted Count 5. In Count 5, you're charged, as you were in the  
22 previous count, with combining with Mr. El Shafee Elsheikh, who  
23 will first be brought to and found in the Eastern District of  
24 Virginia, Mohammed Emwazi and others, known and unknown to the  
25 grand jury, all aided and abetted by each other, did seize,

1 detain, and threaten to kill, injure, and continue to detain  
2 Peter Edward Kassig, a national of the United States of America  
3 traveling outside the United States, in order to compel Peter  
4 Edward Kassig's parents and a government organization, including  
5 but not limited to the United States of America and any part of  
6 its government, to pay a monetary ransom for the release of  
7 Peter Edward Kassig, and to abstain from doing any act as an  
8 explicit or implicit condition for the release of Peter Edward  
9 Kassig, and Peter Edward Kassig's death resulted from the  
10 commission of this offense, all in violation of Title 18,  
11 U.S. Code Section 1203 and 2.

12 So, Mr. Kotey, do you understand that in Count 5 of the  
13 indictment, you're charged with hostage taking resulting in the  
14 death of Peter Edward Kassig? Do you understand that?

15 THE DEFENDANT: Yes, I understand that.

16 THE COURT: And do you understand that there's a  
17 mandatory minimum term of imprisonment of life? And as in the  
18 other cases, the government could have sought the penalty of  
19 death, but the government has agreed not to do so. So you're  
20 not subject to the death penalty; you're subject to the  
21 mandatory minimum of life in prison.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: You'll also be subject to a punitive fine  
25 of up to \$250,000 and a special assessment of \$100.

1           Now, I had already started on Count -- do you  
2 understand that?

3           THE DEFENDANT: Yes.

4           THE COURT: And now I had already started on Count 6,  
5 so I will repeat Count 6. In Count 6, Mr. Kotey, you're charged  
6 with the following: From in and around November 2012 and  
7 continuing to on or about February 7, 2015, you and  
8 El Shafee Elsheikh, who will first be brought to and found in  
9 the Eastern District of Virginia, and Mohammed Emwazi and  
10 others, known and unknown, did conspire to commit murder, as  
11 defined by Title 18, U.S. Code 1111(a), by unlawfully killing  
12 James Wright Foley, Kayla Jean Mueller, Steven Joel Sotloff,  
13 Peter Edward Kassig, all nationals of the United States, while  
14 those nationals were outside the United States, each killing  
15 being willful, deliberate, malicious, and premeditated and with  
16 malice aforethought, in violation of Title 18, U.S. Code  
17 Section 2332(b)(2).

18           So do you understand that's what you're charged with in  
19 Count 6, namely conspiracy to murder a United States citizen  
20 outside of the United States?

21           THE DEFENDANT: Yes, I understand that.

22           THE COURT: And do you understand that, again, there's  
23 a mandatory minimum term of imprisonment of life in prison, and  
24 in this case that sentence must run consecutively to any other  
25 sentences imposed, which as a practical matter doesn't make any

1 difference. But you need to be apprised of all of this. And  
2 you'll have to pay \$100 special assessment and a fine of up to  
3 \$250,000.

4 Next, with respect -- so do you understand all of that,  
5 Mr. Kotey?

6 THE DEFENDANT: Yes.

7 THE COURT: Next, with respect to Count 7. In Count 7,  
8 you're charged with from in and around November 2012 and  
9 continuing to on or about February 7, 2015, that you and  
10 El Shafee Elsheikh, who will first be brought to and found in  
11 the Eastern District of Virginia, and Mohammed Emwazi and  
12 others, known and unknown to the grand jury, did conspire to  
13 provide material support or resources, as that term is defined  
14 by Title 18, U.S. Code Section 2339(a), namely personnel,  
15 including themselves and services, knowing and intending that  
16 they were to be used in preparation for and in carrying out a  
17 violation of Title 18, U.S. Code Section 1203, which is hostage  
18 taking, and Title 18, U.S. Code Section 2332(a)(1), which is  
19 murder, and the deaths of James Wright Foley,  
20 Kayla Jean Mueller, Steven Joel Sotloff, Peter Edward Kassig,  
21 each a citizen of the United States, as well as the deaths of  
22 British and Japanese nationals, resulting from the commission of  
23 this offense, all in violation of United States Code  
24 Section 2339(a).

25 So do you understand that that's what you're charged

1 with in Count 7, namely conspiracy to provide material support  
2 or resources to terrorists and hostage taking and murder?

3 THE DEFENDANT: Yes.

4 THE COURT: And, Mr. Kotey, do you understand that  
5 there's a maximum term of life in prison because death resulted  
6 from that crime?

7 THE DEFENDANT: Yes.

8 THE COURT: If for some reason you did not receive a  
9 life sentence, then you would also be required to serve  
10 five years of supervised release, and if you were to violate any  
11 of the conditions of that release while you were on supervised  
12 release, you could be returned to the prison for full supervised  
13 release term.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Now we go to Count 8. And in Count 8,  
17 Mr. Kotey, you're charged with the following crime: That from  
18 in or about 2012 and continuing thereafter, up to and including  
19 in or about January 2018, in offenses committed outside of the  
20 jurisdiction of any particular state or district of the  
21 United States, that you and El Shafee Elsheikh, who will first  
22 be brought to and found in the Eastern District of Virginia,  
23 Mohammed Emwazi and others, known and unknown to the grand jury,  
24 did conspire to provide material support and resources, as that  
25 term is defined in Title 18 of United States Code

1 Section 329(a), namely personnel, including yourself, and  
2 services to a foreign terrorist organization, namely ISIS, which  
3 at all relevant times was designated by the United States  
4 Secretary of State as a foreign terrorist organization pursuant  
5 to Section 219 of the Immigration and Nationality Act, knowing  
6 that ISIS was a designated foreign terrorist organization; that  
7 ISIS engages in and has engaged in terrorist activity; and that  
8 ISIS engages and has engaged in terrorism; the deaths of  
9 James Wright Foley, Kayla Jean Mueller, Steven Joel Sotloff,  
10 Peter Edward Kassig, each a citizen of the United States, as  
11 well as the deaths of British and Japanese nationals, resulted  
12 from the commission of this offense, all in violation of  
13 Title 18, U.S. Code Section 2339(b).

14 Do you understand that's the charge against you in  
15 Count 8?

16 THE DEFENDANT: Yes.

17 THE COURT: And do you understand that, once again, the  
18 maximum penalty is life because death resulted from the  
19 commission of that crime? Do you understand that?

20 THE DEFENDANT: Yes.

21 THE COURT: And there will be \$100 special assessment  
22 for each of the crimes alleged in the indictment, for a total of  
23 \$800. Do you understand that?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. Now, Mr. Kotey, has anyone in



1 the United States or anyone anywhere promised you that you would  
2 receive a specific sentence if you pled guilty to these charges?

3 THE DEFENDANT: It is understood by me that the  
4 mandatory would be life without parole.

5 THE COURT: All right. That's your understanding?

6 THE DEFENDANT: Yes.

7 THE COURT: Is that correct.

8 THE DEFENDANT: Yes.

9 THE COURT: But I'm asking you whether anyone in the  
10 government has promised you anything different?

11 THE DEFENDANT: No, I haven't been promised anything  
12 else.

13 THE COURT: Has anyone tried to force you or to  
14 pressure you or to coerce you in any way to plead guilty in this  
15 case?

16 THE DEFENDANT: No.

17 THE COURT: Are you pleading guilty, then, freely  
18 extremely and willingly and voluntarily because you're in fact  
19 guilty of these offenses charged in Counts 1 through 8?

20 THE DEFENDANT: Yes.

21 THE COURT: Mr. Kotey, you'll be sentenced under the  
22 law which provides that the sentencing guidelines are advisory,  
23 not mandatory. Have you and your counsel discussed how the  
24 sentencing guidelines and the sentencing statutes might apply to  
25 your case?

1 THE DEFENDANT: Sorry, could you repeat the question?

2 THE COURT: Yes. Have you had any discussions with  
3 your attorneys as to how the sentencing laws of this country  
4 would apply to your case?

5 THE DEFENDANT: Yes, we've discussed in detail.

6 THE COURT: And is it fair to say that you understand  
7 that by pleading guilty to these charges, the minimum sentence  
8 you could receive would be life in prison? Is that correct?

9 THE DEFENDANT: Yeah, life without parole.

10 THE COURT: Life without parole, correct. And in  
11 one case, although it isn't, I think, relevant, the life  
12 sentence could be imposed to run consecutively to the others.  
13 Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Let me ask you again: Has anyone tried to  
16 force you, pressure you, or coerce you in any way to plead  
17 guilty in this case?

18 THE DEFENDANT: No.

19 THE COURT: Are you pleading guilty, then, freely and  
20 willingly and voluntarily because you are in fact guilty of  
21 these offenses?

22 THE DEFENDANT: Yes.

23 THE COURT: Mr. Kotey, it's important that you  
24 understand that you have a right to persist in a plea of not  
25 guilty to these charges, and if you do so, you have the right to

1 a trial by jury, and you have that right whether you are a  
2 citizen of this country, whether you're here legally or  
3 illegally. No matter what, you have that right.

4 Do you understand that?

5 THE DEFENDANT: Yes, I understand that.

6 THE COURT: Now, it's important that you understand  
7 that by pleading guilty, you give up your right to a jury trial.  
8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Now, let me explain to you what rights that  
11 entails. If you insisted on persisting in your right to a jury  
12 trial, you would receive all of the following rights. And I do  
13 this so you'll understand what it is you're giving up by  
14 pleading guilty.

15 First, you would have the right to the assistance of  
16 your counsel, and two counsel -- or two groups of counsel have  
17 been appointed to represent you because your offense is, or was  
18 potentially a capital offense. So your first right that you'll  
19 be giving up, or that you would have in the course of a trial is  
20 the assistance of your counsel through all phases of the  
21 proceedings against you.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Next, do you understand that if you persist  
25 in a plea of not guilty, as you have an absolute right to do,

1       that you would be entitled, in the course of selecting a jury,  
2       to strike 10 persons from a panel of prospective jurors for  
3       whatever reason you please, subject only to the constitutional  
4       constraint that neither you nor the government may strike any  
5       prospective juror solely for reasons of race or gender? Do you  
6       understand that?

7               THE DEFENDANT: Yes.

8               THE COURT: And do you understand that a further right  
9       you would have is that you would have the right to see and hear  
10      all witnesses and all evidence against you, and to have that  
11      evidence cross-examined in your behalf? In other words,  
12      Mr. Kotey, you cannot be prosecuted on the basis of secret  
13      testimony or secret evidence. You have the right to see it all,  
14      to confront it all, and to have it all cross-examined in your  
15      behalf.

16              Do you understand that?

17              THE DEFENDANT: Yes.

18              THE COURT: And do you understand that you would also  
19      have the right to testify before a jury, or if you choose, to  
20      remain silent?

21              Now, the person who decides whether you testify or  
22      remain silent is you, not your attorneys. You make that  
23      decision. Now, of course you can receive advice from your  
24      attorneys, but you must make that decision. And if you decide  
25      to remain silent, the Court will instruct the jury that the jury

1 may draw no inference from your silence.

2 Indeed, if you elect to remain silent, the Court will  
3 tell the jury, instruct the jury, that the jury may draw no  
4 inference from your silence at all because your right to remain  
5 silent is absolute under the Constitution, and you may not be  
6 penalized for exercising that right.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: And next, do you understand that if you  
10 persist in a plea of not guilty, as you have an absolute right  
11 to do, then the government would be required to prove beyond a  
12 reasonable doubt each and every element of these eight offenses  
13 that you're pleading guilty to? Do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: And do you understand also that if you  
16 persist in a plea of not guilty, the government would be  
17 required to prove those, as I said, beyond a reasonable doubt,  
18 and you would be entitled to the issuance of compulsory process  
19 and subpoenas to compel the attendance of witnesses and evidence  
20 to be presented in your behalf at the trial?

21 Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Now, Mr. Kotey, I've listed all the rights  
24 that you would have if you persist in a plea of not guilty, and  
25 after each one I've asked you whether you understood it, and you

1 said yes. Do you understand that by pleading guilty, you'll  
2 give up all those rights I've listed and there will be no trial  
3 at all?

4 THE DEFENDANT: Yes, I understand.

5 THE COURT: Now, Mr. Kotey, you have a Plea Agreement  
6 and a Statement of Facts that it appears you have signed. Have  
7 you read those documents?

8 THE DEFENDANT: Yes, I've read them thoroughly.

9 THE COURT: All right. And did you have any difficulty  
10 reading them?

11 THE DEFENDANT: No.

12 THE COURT: I'm going to have the court security  
13 officer hand you what appear to be your Plea Agreement and  
14 Statement of Facts that you've signed. I want you to look at  
15 those documents and then tell me whether they are your  
16 Plea Agreement and Statement of Facts.

17 Is that your Plea Agreement, Mr. Kotey?

18 THE DEFENDANT: Yes.

19 THE COURT: Is that your signature that appears at the  
20 end of that document?

21 THE DEFENDANT: That is. That is my signature.

22 THE COURT: All right. And does your signature  
23 appearing at the end of the Plea Agreement signify that you have  
24 read the Plea Agreement, that you understand its terms and  
25 conditions, and that you agree to them?

1 THE DEFENDANT: That's correct.

2 THE COURT: Is that your Statement of Facts, Mr. Kotey?

3 THE DEFENDANT: That is my Statement of Facts.

4 THE COURT: And is that your signature that appears at  
5 the end of that document?

6 THE DEFENDANT: That's right.

7 THE COURT: And does your signature appearing at the  
8 end of the Statement of Facts signify that you have read and  
9 understood the Statement of Facts and you agree that it is true  
10 and accurate in all respects?

11 THE DEFENDANT: That's correct.

12 THE COURT: All right. Return those documents to the  
13 bench, please.

14 Now, Mr. Kotey, I'm going to summarize the essential  
15 terms of your Plea Agreement. Pay careful attention to my  
16 summary, because at the conclusion, I will ask you whether those  
17 are the terms of your Plea Agreement with the government as you  
18 understand them.

19 Under the Plea Agreement, Mr. Kotey, you agree to plead  
20 guilty to all of the offenses charged in the pending eight-count  
21 indictment which charge you with the following offenses:

22 Count 1, conspiracy to commit hostage taking resulting  
23 in death, in violation of 18 U.S. Code Section 1203; Count 2,  
24 hostage taking resulting in the death of James Wright Foley, in  
25 violation of 18 U.S.C. Section 1203 and 2, Section 2, that is;

1 and Count 3, hostage taking resulting in the death of  
2 Kayla Jean Mueller, in violation of 18 U.S.C. Sections 1203 and  
3 Section 2; and Count 4, hostage taking resulting in the death of  
4 Steven Joel Sotloff, in violation of 18 U.S.C. Sections 1203 and  
5 Section 2; and Count 5, hostage taking resulting in the death of  
6 Peter Edward Kassig, in violation of 18 U.S.C. Section 1203 and  
7 Section 2; Count 6, conspiracy to murder United States citizens  
8 outside of the United States, in violation of 18 U.S.C.  
9 Section 2332(b)(2); and Count 7, conspiracy to provide material  
10 support to terrorists, resulting in death, in violation of Title  
11 18, U.S.C., -- U.S. Code Section 2339(a); and Count 8,  
12 conspiracy to provide material support to a designated foreign  
13 terrorist organization resulting in death, in violation of 18  
14 U.S.C. Section 2339(b).

15 And, as the Plea Agreement reflects, as I went through  
16 with you just a minute ago, the Plea Agreement provides that the  
17 maximum term of imprisonment for each count is life. And that's  
18 because the Plea Agreement acknowledges that you cannot be  
19 sentenced to life in this -- I mean, sentenced to death. That  
20 life is what you are facing.

21 And that the maximum penalties for each offense also  
22 includes a fine of up to \$250,000, a special assessment of \$100  
23 per count, for a total of \$800; and a maximum supervised release  
24 term of life. And if you were to violate any of the conditions  
25 of that supervised release while you were on supervised release,



1 you could be returned to prison for the full supervised release  
2 term.

3 Let me stop on my summary right there. I'll continue.  
4 But I want to be sure that you agree, Mr. Kotey, that that's  
5 what you are facing in this case.

6 THE DEFENDANT: Yes.

7 THE COURT: All right. Continuing, the Plea Agreement  
8 goes on to provide, in my summary, that you're pleading guilty  
9 because you're in fact guilty of the charged offenses; you admit  
10 the facts set forth in the Statement of Facts filed with the  
11 Plea Agreement; you agree that those facts establish your guilt  
12 of the charged offense beyond a reasonable doubt; and that you  
13 understand that the Statement of Facts as incorporated with the  
14 Plea Agreement and will be the basis for the calculation of your  
15 advisory sentencing guideline range.

16 The Plea Agreement continues, Mr. Kotey, and provides  
17 that you're representing that you're satisfied that your  
18 attorneys have rendered effective assistance to you in this  
19 case, and that you understand that by entering into the Plea  
20 Agreement that you'll be giving up your right to a jury trial.  
21 And I had previously gone over your rights to a jury trial in  
22 some detail with you, and I won't review those with you now.

23 The Plea Agreement goes on to provide that you  
24 understand that the Court is bound by statute to impose a  
25 mandatory life sentence, mandatory term of life in prison, but

1 that the Court will also determine your sentence in accordance  
2 with Section 3553(a), which includes the Court's determination  
3 of the United States sentencing guidelines applicable in this  
4 case.

5 And the Plea Agreement provides that you and the  
6 government stipulate, and will recommend to the Court after  
7 provision of the sentencing guidelines, that you and the  
8 government will recommend to the Court that the provisions of  
9 the sentencing guidelines apply in this case.

10 Now, that's an agreement you and the government have  
11 reached. It isn't binding on the Court, but I don't see at the  
12 moment any reason to disagree with it because these sentences  
13 are life in prison, as mandatory sentences.

14 But in the Plea Agreement, you and the government have  
15 agreed to recommend to the Court that the guidelines in this  
16 case, under various provisions of the guidelines, the sentencing  
17 guidelines, are an offense level of 32, plus six, six additional  
18 because there was a ransom demand or demand on the government;  
19 an increase of four levels for life threatening or bodily  
20 injury; dangerous weapon was used, for another two levels;  
21 another two levels that you [sic] were not released before  
22 30 days elapsed; 12 levels for terrorism; four levels for an  
23 aggravating role, for a total offense level of 62, which, as I'm  
24 sure your counsel told you, is well above the life imprisonment  
25 requirement.

1           And you and the government further agree that you have  
2           assisted the government in the investigation and prosecution of  
3           your crimes by timely notifying the authorities of your  
4           intention to enter a plea of guilty. So for that, the  
5           government has agreed that if you qualify for a two-level  
6           decrease in your offense level, that the government will move  
7           for an additional level of credit based on your timely decision  
8           to plead guilty.

9           And you and the government have agreed to recommend to  
10          the Court that the sentence imposed on Counts 1 through 8 should  
11          be served concurrently. The problem with that is that the  
12          statute requires one of those sentences to be served  
13          consecutively. Were you aware of that, Mr. Kotey?

14                 THE DEFENDANT: Yes.

15                 THE COURT: Let me ask counsel. Were you aware of  
16          that?

17                 MR. FITZPATRICK: Can you repeat the question,  
18          Your Honor?

19                 THE COURT: You and the defendant have agreed to  
20          recommend to the Court that the sentences imposed on Counts 1  
21          through 8 should be served concurrently.

22                 MR. FITZPATRICK: Concurrent.

23                 THE COURT: One of those life sentences has to be  
24          consecutive. Am I right?

25                 MR. FITZPATRICK: I'm not aware of that, Your Honor.

1 THE COURT: Well, hang on a minute. I may be wrong.

2 MR. FITZPATRICK: As I understand it, Your Honor,  
3 there's no statutory requirement for consecutive sentences,  
4 unlike you would see in, say, a firearms case.

5 THE COURT: Well, wait a minute. Let me tell you which  
6 count specifically.

7 And I may be wrong about this, but look at Count 6,  
8 conspiracy to murder United States citizens outside the  
9 United States. When the crime results in death, then that  
10 mandatory minimum of life must run consecutively. Am I  
11 incorrect in that regard?

12 MR. FITZPATRICK: Let me check the statute.

13 THE COURT: In any event, you and the defendant have  
14 agreed to recommend to the Court that they all run concurrently.  
15 Am I right?

16 MR. FITZPATRICK: That's correct.

17 THE COURT: Well, that's your agreement. That stands.  
18 At sentencing, I'll have to determine whether the law precludes  
19 me from doing it with Count 6.

20 As a practical matter, though, Mr. Kotey, I don't see  
21 that it makes any difference. Not many of us have more than one  
22 life.

23 THE DEFENDANT: Correct.

24 THE COURT: Now, let me go on with my summary of the  
25 Plea Agreement, Mr. Kotey. You'll recall that I was going

1 through your Plea Agreement, provision by provision, to give you  
2 a summary. And I'm doing it because at the conclusion, I will  
3 ask you whether those are the terms of your Plea Agreement with  
4 the government as you understand it.

5 Now, after this provision in which you and the  
6 government have agreed to recommend to the Court that your life  
7 sentences run concurrently, the Plea Agreement goes on to say  
8 that you and the government agree that there exists no  
9 aggravating or mitigating circumstances of a kind or to a degree  
10 not adequately taken into account by the sentencing commission  
11 in formulating the guidelines that should result in a sentence  
12 outside of the advisory guideline range.

13 All of this is somewhat academic because the guidelines  
14 themselves would require life in prison. That's right, isn't  
15 it, Ms. Mertz?

16 MS. MERTZ: That's correct, Your Honor.

17 THE COURT: So it's a bit academic.

18 In any event, Mr. Kotey, your Plea Agreement goes on to  
19 provide that you understand that you would ordinarily, under the  
20 law, have a right to appeal the sentence imposed. But in your  
21 Plea Agreement, you're waiving your right to appeal your  
22 conviction and any sentence within the statutory maximum  
23 described above. And you waive that right on any ground other  
24 than ineffective assistance of counsel claim cognizable on  
25 direct appeal.

1           You also waive your right to file for an extraordinary  
2           and compelling sentence reduction set forth in 3582 of Title 18.  
3           And you also waive all rights, whether asserted directly or by a  
4           representative, to request to receive from any department or  
5           agency any records pertaining to the investigation or  
6           prosecution of this case, including, without limitation, any  
7           record that may be sought under the Freedom of Information Act.

8           The Plea Agreement continues, Mr. Kotey, and provides  
9           that in return for your plea, if the Court accepts it, the  
10          government agrees not to prosecute you further in the  
11          Eastern District of Virginia for the specific conduct described  
12          in the indictment or the Statement of Facts. The only exception  
13          to that is a crime of violence not charged in the indictment.  
14          If such a charge is brought, then the government may allege and  
15          prove the conduct described in the indictment or the Statement  
16          of Facts.

17          The Plea Agreement goes on, Mr. Kotey, and provides  
18          that if you comply with the terms of your Plea Agreement and  
19          take all reasonable measures under the law -- I beg your pardon.  
20          If you comply with the terms of the Plea Agreement, then the  
21          U.S. Attorney's Office for the Eastern District of Virginia  
22          agrees to take all reasonable measures under the law to seek  
23          your transfer to the United Kingdom for the prosecution by the  
24          United Kingdom's Crown Prosecution Service after you have served  
25          15 years in the custody of the United States Department of

1 Justice's Bureau of Prisons.

2 Now, prior to this transfer to the United Kingdom, you  
3 agree to plead guilty in a United Kingdom prosecution, by which  
4 you would accept responsibility for violations of United Kingdom  
5 law, and would further agree that there is a realistic prospect  
6 of conviction and prosecution that is required in the public  
7 interest.

8 Now, if an agreement between you and the United Kingdom  
9 government is not reached or fulfilled for any reason; that is,  
10 an agreement to plead guilty to these violations, then you agree  
11 that you're not relieved from this Plea Agreement or any  
12 sentence imposed on you by this court for convictions of  
13 Counts 1 through 8 of the indictment.

14 So in addition to violating other provisions of  
15 United Kingdom law, including provisions in the United Kingdom's  
16 Terrorism Act, you agree that your conduct in Syria violated a  
17 number of United Kingdom criminal law provisions, including  
18 Section 63B of the Terrorism Act of 2000; that is, the murder of  
19 David Haines, Alan Henning, James Foley, Steven Sotloff, and  
20 Peter Kassig; and Section 1 of the Taking of Hostages Act of  
21 1982, hostage taking of John Cantlie, David Haines,  
22 Alan Henning, Kayla Jean Mueller, James Foley, Steven Sotloff,  
23 and Peter Kassig.

24 And for those enumerated offenses, you agree that the  
25 maximum term of imprisonment in the United Kingdom is natural

1 life without parole, and that this would be a fair and proper  
2 punishment which shall be served consecutively to the punishment  
3 imposed in the United States.

4 Now, you also agree that in the event the sentence  
5 imposed on you in the United Kingdom is shorter than life, or if  
6 the actual sentence served in the United Kingdom is less than  
7 life, then -- and for any reason, then you agree, upon  
8 completion of the United Kingdom sentence, to serve the  
9 remainder of your United States' imposed life sentence in the  
10 United Kingdom, if legally available, or if he agrees to a  
11 transfer to the United States, to serve the remainder of your  
12 sentence, to serve it here. And you knowingly and voluntarily  
13 waive any right to appeal the sentence or to seek release in the  
14 United Kingdom at any time or for any reason.

15 Now, you've also -- the U.S. Attorney's Office in the  
16 Plea Agreement agrees to take all reasonable steps under the law  
17 to seek your transfer to the United Kingdom pursuant to the  
18 terms of this Plea Agreement, with the understanding that the  
19 transfer would be subject to the sole discretion of the  
20 United Kingdom.

21 And you would agree to a transfer to the United Kingdom  
22 Extradition Treaty of 2000 or pursuant to the Mutual Legal  
23 Assistance Treaty between the United States and the United  
24 Kingdom; or by any other lawful means, without prejudice or  
25 transfer under any treaty provisions or other lawful means, you



1 further agree that your transfer to the United Kingdom would be  
2 proper under Article 11 of the MLAT.

3 Now, you've also agreed to cooperate with the  
4 United States and British governments by truthfully disclosing  
5 all information known by you pursuant to the terms set forth in  
6 Paragraphs 9 and 11, which I'll come to in a moment, of this  
7 Plea Agreement. And you submit that your transfer under the  
8 terms of Article 11 would be proper, and the U.S. Attorney's  
9 Office for the Eastern District of Virginia agrees to take all  
10 reasonable measures to seek a transfer under any lawful means  
11 pursuant to the terms of the Plea Agreement.

12 Let me ask you, Mr. Fitzpatrick, let's suppose I, as  
13 the law appears to require, I impose a sentence of life --  
14 whether one of them is consecutive or not doesn't matter, but a  
15 term of life in prison without parole for those crimes -- and  
16 then he is transferred pursuant to the terms of his  
17 Plea Agreement to the United Kingdom. What happens if in the  
18 United Kingdom he does not receive life? Is he returned to the  
19 United States to finish the sentence that I impose on him?

20 MR. FITZPATRICK: Yes. Or he can serve the remainder  
21 of his sentence within the United Kingdom if that option is  
22 legally available. If it is not legally available, he'll be  
23 transferred, under the same provision, back to the United States  
24 to serve the remainder of his sentence.

25 THE COURT: Mr. Kotey, did you understand that to be

1 the case?

2 THE DEFENDANT: Yes.

3 THE COURT: All right. Let's continue. The  
4 Plea Agreement continues that you agree to provide full,  
5 complete, and truthful cooperation to the United States, and if  
6 you fail to provide full, complete, and truthful cooperation,  
7 the government may be released from its obligations under the  
8 Plea Agreement, including the obligations described in that  
9 paragraph about transferring you to Britain, or to the  
10 United Kingdom, after 15 years if you're not truthful.

11 Now, you've agreed to cooperate fully and truthfully  
12 with the United States and provide the government with all of  
13 the information you know about any criminal activity, not just  
14 that that's in the indictment. But if you know about any  
15 criminal activity, you're obligating yourself to disclose that  
16 to the government.

17 Now, specifically in connection with your obligation to  
18 cooperate, you have agreed to be reasonably available for  
19 debriefings, pretrial conferences if the government may require.  
20 You've also agreed to cooperate with all foreign governments  
21 seeking information from you. You also agree to supervised  
22 direct meetings with all victim family members and released  
23 hostages if those victims request any such supervised direct  
24 meetings.

25 You also agree to provide all documents or records or

1 other writings or materials of any kind in your possession or  
2 under your care, custody, or control relating in any way to the  
3 matters under investigation.

4           You've also agreed, at the request of the United States  
5 government, to submit voluntarily to a polygraph examination.  
6 That's a lie detector test. And it will be the government's  
7 prerogative to choose the polygraph examiner and specify the  
8 procedures for the examination.

9           You've also agreed that the Statement of Facts that  
10 you've signed and made a part of the Plea Agreement is limited  
11 to facts required to support the plea, and that you'll provide  
12 more detailed facts relating to this case during ensuing  
13 debriefings. And the Plea Agreement notes that you're on notice  
14 that if you violate any federal, state, or local criminal law  
15 while cooperating, that could affect whether or not you've  
16 complied with this Plea Agreement.

17           The Plea Agreement goes on to provide that the  
18 government agrees that it will not use any truthful information  
19 you provide pursuant to this agreement to prosecute you further  
20 in the United States. And the government agrees that no  
21 truthful information that you provide will be used in  
22 determining the applicable guideline range, except for relevant  
23 conduct, and nothing in the Plea Agreement prevents the  
24 government in any way from prosecuting the defendant, you,  
25 should you knowingly provide false, untruthful, perjurious

1 information or testimony, or from using information provided by  
2 you in furtherance of any forfeiture action.

3 Now, the Plea Agreement is not conditioned on any  
4 charges being brought against any other person. In other words,  
5 in order for you to satisfy your cooperation obligation,  
6 Mr. Kotey, it isn't necessary for you to provide information  
7 that results in charges being brought against other persons.  
8 All that's necessary in order for you to satisfy your obligation  
9 to cooperate is for you to provide full, complete, and truthful  
10 cooperation.

11 The Plea Agreement goes on to provide that you  
12 understand and agree that any monetary penalties imposed on you,  
13 including restitution, will be due and payable immediately and  
14 subject to immediate enforcement by the United States as  
15 provided for in the law. And if the Court imposes a schedule of  
16 payments, that's merely a minimum means of collecting the  
17 penalty. The government, as I said, could obtain a judgment and  
18 execute on the judgment immediately.

19 Now, you've agreed to participate voluntarily in the  
20 Bureau of Prisons Inmate Financial Responsibility Program,  
21 regardless of whether the Court specifically directs it or not.  
22 And you've agreed to make good faith efforts toward payment of  
23 all monetary penalties. And as I told you earlier, the  
24 Plea Agreement records it as well; you'll have to pay \$100 per  
25 each of the eight felony counts, for a total of \$800.

1           You've also agreed, in your Plea Agreement, that you  
2           understand that restitution is mandatory under the law, and  
3           you've agreed to the entry of a restitution order for the full  
4           amount of the victims' losses as determined by the Court.

5           Now, you and the government agree that, at a minimum,  
6           the families of the four American victims identified in the  
7           indictment have suffered losses that are entitled to  
8           restitution. And you understand, Mr. Kotey, that forfeiture and  
9           restitution are separate and distinct financial obligations that  
10          must be imposed.

11          And you further understand that restitution can be  
12          enforced, will be enforced under the law, and you acknowledge  
13          that the determination and identities, addresses, and loss  
14          amounts for other victims -- for all victims in this matter is a  
15          somewhat complicated time-consuming process. And so you've  
16          agreed that the Court may defer the imposition of restitution  
17          until after sentencing; however, you specifically waive the  
18          90-day provision found in the law and consent to the orders of  
19          restitution at any time after sentencing.

20          However, Mr. Fitzpatrick, I think you understand that I  
21          expect you to make every effort to ascertain, determine the  
22          amount of restitution prior to sentencing so that I can enter an  
23          appropriate order that you have submitted to the defendant and  
24          he can agree to. If he doesn't agree, then of course I'll make  
25          a ruling. But I want to deal with that at the time of

1 sentencing.

2 MR. FITZPATRICK: I understand, Your Honor. We will do  
3 that.

4 THE COURT: And you understand, Mr. Kotey, as the  
5 Plea Agreement records, that forfeiture of assets is part of the  
6 sentence that must be imposed in this case. And you've agreed  
7 to waive all constitutional and statutory challenges you might  
8 have to any forfeiture carried out in accordance with this  
9 Plea Agreement. And you waive any failure by the Court to  
10 advise you of the applicable forfeiture. Of course, that's what  
11 I'm doing right now.

12 And you admit and agree that the conduct described in  
13 the indictment and the Statement of Facts provides a sufficient  
14 factual and statutory basis for the forfeiture of the property  
15 sought by the government. You'll have to forfeit any property  
16 used to facilitate or commit the offense, or any property  
17 traceable to the profits or proceeds of the offense.

18 And the Plea Agreement goes on to record that you  
19 acknowledge that you're removable from the United States, and  
20 you agree not to contest any removal proceeding.

21 But if things go according to plan, Mr. Fitzpatrick, he  
22 would be removed by his agreement that the agreement of the  
23 United Kingdom after 15 years here to serve -- or to be  
24 prosecuted in the United Kingdom and serve any sentence there.  
25 Is that right?

1 MR. FITZPATRICK: That is correct, if he's in  
2 compliance with the agreement and if the United Kingdom receives  
3 him.

4 THE COURT: All right. And you understand that,  
5 Mr. Kotey?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. The Plea Agreement goes on to  
8 provide that you waive any rights you might have related to  
9 removal, including a claim of asylum, withholding of  
10 deportation, voluntary departure, adjustment of status -- but  
11 you don't have status -- and protection under Article 3 of the  
12 Convention Against Torture.

13 And you specifically acknowledge that you've never been  
14 prosecuted and have no present fear of persecution -- I meant  
15 persecution, not prosecution. That you've never been persecuted  
16 in and have no present fear of persecution in the United Kingdom  
17 on account of race, religion, nationality, membership in a  
18 particular social group, or political opinion. And you  
19 acknowledge also that you've never been tortured in the  
20 United Kingdom, nor do you have any present fear of torture in  
21 the United Kingdom.

22 The Plea Agreement continues and provides that its  
23 effective when you signed it. If there's an allegation by you,  
24 Mr. Kotey, or by the government that there's been a breach of  
25 the agreement, the Court will hold a hearing, and the party

1 alleging the breach will have the burden of proving the breach  
2 by a preponderance of the evidence.

3 If I find, Mr. Kotey, that you're in breach of the  
4 agreement and the government seeks and obtains from the Court  
5 the permission to withdraw from the Plea Agreement, then the  
6 government will be free to prosecute you for any offense it  
7 knows about, including what's in the indictment, and in doing  
8 so, it would be free to use against you all of the information  
9 it's obtained from you, including the Statement of Facts, and  
10 you would not be able to rely on any statute, rule, or  
11 constitutional provision to suppress the use of that  
12 information.

13 And, finally, Mr. Kotey, the Plea Agreement notes that  
14 it's the full and complete agreement between you and the  
15 government and that there aren't any other secret or side  
16 arrangements or understanding relating to your pleas of guilty.

17 Now, are those all that I've summarized, including a  
18 few interruptions, the terms of your Plea Agreement, Mr. Kotey,  
19 with the government as you understand it?

20 THE DEFENDANT: Yes, they are. I would just like to  
21 emphasize on the point of --

22 THE COURT: Yes, go ahead.

23 THE DEFENDANT: -- cooperation, that my cooperation is  
24 truthful cooperation, and that is not conditional upon my  
25 testimony in the event that my co-defendant proceeds to trial.



1 THE COURT: I think that's consistent with my reading  
2 as well, Mr. Kotey.

3 Mr. Fitzpatrick, he's not obligated to testify in the  
4 event Mr. Elsheikh goes to trial. He's not obligated to  
5 testify?

6 MR. FITZPATRICK: That's correct, Your Honor.

7 THE COURT: He is obligated to cooperate and provide  
8 you all of the information, but he is not obligated to testify?

9 MR. FITZPATRICK: Correct, Your Honor. He also  
10 understands that the corresponding Rule 35 sentence reduction  
11 language has been removed from his Plea Agreement as well.

12 THE COURT: Yes. And you understand that, Mr. Kotey?

13 THE DEFENDANT: Yes, the 5(k)(1).

14 THE COURT: Yes. In other words, you will not get a  
15 government motion for reduction of sentence based --

16 THE DEFENDANT: That's correct.

17 THE COURT: -- on your cooperation. Do you understand  
18 that?

19 THE DEFENDANT: I understand.

20 THE COURT: Now, let me go back and ask you, given the  
21 clarification you made with respect to testimony, are those the  
22 terms of your Plea Agreement that I've summarized here over  
23 these past few minutes, are those the terms of your  
24 Plea Agreement with the government, as you understand it?

25 THE DEFENDANT: Yes, they are.

1 THE COURT: Has anyone made any other or different kind  
2 of promise or assurance to you of any kind whatsoever in an  
3 effort to induce you to plead guilty?

4 THE DEFENDANT: None whatsoever.

5 THE COURT: All right. And I will ask you one more  
6 time, has anyone tried to force you, pressure you, or coerce you  
7 in any way to plead guilty in this case?

8 THE DEFENDANT: Not at all.

9 THE COURT: And are you pleading guilty freely,  
10 willingly, and voluntarily?

11 THE DEFENDANT: Yes.

12 THE COURT: Now, do you understand that if you persist  
13 in a plea of not guilty, the government will be required to  
14 prove beyond a reasonable doubt each and every element of the  
15 offense charged, the offenses charged in Counts 1 through 8?

16 THE DEFENDANT: Yes.

17 THE COURT: What that means, Mr. Kotey, is the  
18 following: With respect to Count 1, the government would be  
19 required to prove beyond a reasonable doubt that a conspiracy  
20 existed between you and Elsheikh -- the government would have to  
21 prove that you and Elsheikh and perhaps others had some kind of  
22 arrangement or understanding to engage in this conspiracy to  
23 seize, detain, threaten, or kill U.S. nationals; Foley, Mueller,  
24 Sotloff, and Kassig.

25 Do you understand the government would have to prove

1 that there was a conspiracy; that you joined the conspiracy  
2 freely, willingly, and voluntarily, knowing what the conspiracy  
3 was about and attempting to do; and that you weren't coerced in  
4 any way? Do you understand --

5 THE DEFENDANT: Yes.

6 THE COURT: -- the government would have to prove all  
7 of that beyond a reasonable doubt?

8 THE DEFENDANT: Yes.

9 THE COURT: All right. And did you do what's charged  
10 in Count 1 of the indictment, Mr. Kotey?

11 THE DEFENDANT: Yes, I did.

12 THE COURT: Tell me in your own words, sir, what you  
13 did, and I'll tell you that I'm going to ask you that for each  
14 of the counts. But for this one, you can talk about hostages,  
15 but for the others I'm going to ask you specifically about each  
16 one.

17 So tell me what you did with respect to Count 1. That  
18 is, did you join a conspiracy to commit hostage taking that  
19 resulted in death?

20 THE DEFENDANT: Sorry?

21 THE COURT: Did you participate or join willingly and  
22 knowingly a conspiracy to commit hostage taking resulting in  
23 death?

24 THE DEFENDANT: Yes, I did.

25 THE COURT: And can you tell me in your own words

1 briefly what you did. Or not briefly, as you choose.

2 THE DEFENDANT: If I may, I have prepared a summary,  
3 that which would explain all eight counts.

4 THE COURT: All right. Well, that may be more  
5 appropriate at sentencing. I just want to know factually what  
6 you did with respect to each of these counts.

7 THE DEFENDANT: These cover all eight counts, and they  
8 are facts as they occurred. They're very brief.

9 THE COURT: All right. Well, let's begin that way,  
10 although this is not a time for you to attempt to justify or to  
11 argue why you did it. You understand that?

12 THE DEFENDANT: I understand.

13 THE COURT: All right. Go ahead, sir.

14 THE DEFENDANT: Okay. In August of 2012, I departed  
15 the United Kingdom for Syria along with Mohammed Emwazi, the man  
16 who would later appear in Islamic State media releases where he  
17 is depicted, filmed beheading captives, including but not  
18 limited to U.S. and United Kingdom citizens.

19 I left the United Kingdom for Syria in order to engage  
20 in the military fight against the Syrian Armed Forces of  
21 President Bashar al-Assad. I departed the United Kingdom while  
22 holding the belief and understanding that the Islamic concept of  
23 armed Jihad was a valid and legitimate course and means by which  
24 a Muslim defends his fellow Muslims against injustice, and  
25 thwarts against any attempt by others to stifle the efforts of

1 Muslims to establish -- in establishing Islamic governance in --

2 THE COURT: How much more do you have, Mr. Kotey?

3 THE DEFENDANT: Not much.

4 THE COURT: Because this is what I expected you might  
5 say at sentencing. It isn't an answer to my direct question.  
6 You're now giving me reasons about why you did things. But go  
7 ahead and finish your statement if it's brief.

8 THE DEFENDANT: Okay. So, therefore, I accept that I  
9 would have been perceived and deemed as being a radical who  
10 holds extremist views.

11 I arrived in Syria in October of 2012, just under  
12 two months of my departure from the United Kingdom, and within  
13 months after my arrival, I became aware of Emwazi's involvement,  
14 after our brief separation, in operations to capture and detain  
15 non-Muslim foreigners as part of what was then the main nucleus  
16 of an external security unit of the Islamic State. I then  
17 joined Emwazi in these operations, which included the planning  
18 and execution of capture-and-detain operations on predominantly  
19 western non-Muslims, in addition to the planning of external  
20 operations.

21 While engaging in these activities, I offered my formal  
22 pledge of allegiance to the Islamic State and its then leader,  
23 Abu Bakr al-Baghdadi, knowing that the Islamic State was hostile  
24 towards the United States, the United Kingdom, and other western  
25 and local governments, and with the full knowledge that the

1 United States considered the Islamic State to be a terrorist  
2 entity.

3 THE COURT: Is that the end?

4 THE DEFENDANT: No.

5 THE COURT: All right. Go on. How much more do you  
6 have?

7 THE DEFENDANT: Probably four or five points.

8 THE COURT: Do it quickly. Because those weren't the  
9 questions I was asking. You're now giving me your reasons for  
10 what you did, and that's not really what I asked. I asked what  
11 did you do.

12 THE DEFENDANT: This is where I will cover that.

13 THE COURT: All right. Go on.

14 THE DEFENDANT: It was while engaged in these  
15 activities that I came into contact with those four  
16 U.S. citizens mentioned in the indictment. They are  
17 Peter Kassig, Kayla Mueller, Steven Sotloff, and James Foley,  
18 along with three British citizens, Alan Henning, David Haines  
19 and John Cantlie, in addition to a number of other European  
20 citizens whom had been captured either by Emwazi, myself, or  
21 other security cells operating cross Northern Syria at the time.

22 Upon the orders of the Islamic State senior leadership,  
23 I, along with others, opened up channels of negotiation with  
24 authorities, families, and representatives of those captives  
25 held by the Islamic State. This involved me visiting the

1 detention facilities wherein the foreign captives were being  
2 held, and interacting with them in every capacity that would  
3 further the prospects of our negotiation demands being met,  
4 commencing with the extraction of communication details and  
5 contacts.

6 THE COURT: Does that complete it?

7 THE DEFENDANT: No.

8 THE COURT: All right. Finish it.

9 THE DEFENDANT: The conditions or demands of these  
10 negotiations on the part of the Islamic State, particularly as  
11 it related to the United States and the United Kingdom's  
12 citizens, were the release of Muslims held in U.S. custody; in  
13 specific, the female prisoner, Dr. Aafia Siddiqui, both held in  
14 Guantanamo Bay, and others held as a result as the U.S.'s war on  
15 terror --

16 THE COURT: All right.

17 THE DEFENDANT: -- in addition to large sum ransom  
18 payments.

19 I was principally involved in every process of these  
20 negotiations, including but not limited to the writing up,  
21 sending, and receiving of emails and Proof of Life pictures and  
22 videos, the planning and execution of operations to collect the  
23 ransom payments paid by European countries, the transfer of  
24 those European captives to the Syrian-Turkish border, whereby  
25 they were released after payment, and I was also involved in the

1 recording of a number of Proof of Life videos and pictures that  
2 were sent to the families and representatives of those held  
3 captive, which included but was not limited to the U.S. and UK  
4 citizens.

5 This role of mine required that I at times was engaged  
6 in acts of violence or the threat thereof against the captives  
7 in order to subdue them and in order to compel those western  
8 governments, included but not limited to the United States, to  
9 act fast and cooperate and comply with our demands. I had no  
10 doubt that any failure of those foreign governments to comply  
11 with our demands would ultimately result in either the  
12 indefinite detention of those foreign captives or their  
13 execution. Though having been informed beforehand of the order  
14 to do so, I coincidentally was not myself physically present at  
15 any of those executions carried out against the Western  
16 captives.

17 After my involvement and role with the foreign captives  
18 came to an end, I then went on to assume a number of roles  
19 within the Islamic State; that is, up until my capture in  
20 January 2018, such as head of the special forces training camp,  
21 the office for external operations, mainly recruitment, but at  
22 times extended to other roles; a sniper within the Islamic State  
23 sniper brigade, an assistant or aide to the battlefield  
24 operations coordinator for the special forces. I worked as part  
25 of the Islamic State's English media department, and then I



1 joined the central operations room, mainly involved in military  
2 intelligence and the preparing of data reports for senior  
3 Islamic State leadership.

4 THE COURT: All right. So you did join the conspiracy  
5 to capture hostages, and you knew that the capture -- that you  
6 were trying to get ransom, and you knew that their capture would  
7 result, and did result, in their death by Emwazi?

8 THE DEFENDANT: That's right.

9 THE COURT: And I take it you're aware that he's no  
10 longer living?

11 THE DEFENDANT: Yeah, he was killed in a U.S. drone  
12 strike in 2015.

13 THE COURT: You may be seated for a moment, Mr. Kotey.  
14 I'm going to have the prosecutor, Mr. Fitzpatrick, tell the  
15 Court what the government would prove were this matter to go to  
16 trial.

17 After he finishes that, Mr. Kotey, I will have you  
18 return to the podium and tell the Court whether what he has said  
19 is true and accurate in all respects. And after that, I will  
20 hear you formally plead, if you wish, to plead guilty to these  
21 counts one at a time.

22 All right. Mr. Fitzpatrick.

23 MR. FITZPATRICK: Your Honor, before I begin with the  
24 Statement of Facts, may I just address the Court 's question  
25 about the consecutive sentence issue to clear up Count 6?

1 THE COURT: Yes, you may.

2 MR. FITZPATRICK: Count 6 in the indictment,  
3 Your Honor, charges the defendant with participating in the  
4 conspiracy to murder U.S. citizens abroad. Under Code  
5 Section 18, U.S.C. 2332(b)(2), that section does not require  
6 consecutive sentence. That may be run concurrently with all  
7 other offenses.

8 The Court was referring to another section within the  
9 same chapter, not applicable in this case.

10 THE COURT: All right. I welcome the correction.

11 MR. FITZPATRICK: Thank you, Your Honor.

12 THE COURT: In any event, you have made clear that you  
13 will recommend concurrent sentences, and obviously what I was  
14 saying is if the law permits that, that's one thing. It doesn't  
15 appear to permit it, but you've corrected me, and I accept that.  
16 Let's go on.

17 MR. FITZPATRICK: Thank you, Your Honor.

18 Your Honor, had this matter proceeded to trial, the  
19 evidence would show that the defendant was in fact raised in  
20 London. At a young age, he became friends with Mohammed Emwazi  
21 and El Shafee Elsheikh. And, Your Honor, the evidence would  
22 also show that in January -- on or about January 4th, 2018, the  
23 defendant was apprehended by the Syrian Democratic Forces, along  
24 the El Shafee Elsheikh as they were trying to get out of Syria  
25 and head to turkey. They were apprehended by the Syrian

1 Democratic Forces.

2           Going back to 2011, Your Honor, as reflected in the  
3 Statement of Facts, the defendant, El Shafee Elsheikh, joined a  
4 protest against the English Defense League in London on the  
5 anniversary of September 11th, 2001, the 10-year anniversary.  
6 The English Defense League had responded to a protest by a group  
7 called Muslims Against Crusaders. The defendant, Mr. Elsheikh,  
8 and a group of others came to confront the English Defense  
9 League. They were detained and their electronic devices were  
10 seized and downloaded.

11           So you can see from those events set forth in the  
12 Statement of Facts, Your Honor, Mr. Kotey and Mr. Elsheikh have  
13 a long relationship with one other.

14           As mentioned in the defendant's statement and is also  
15 reflected in the Statement of Facts, the defendant traveled to  
16 Syria from the United Kingdom in late August of 2012. He left  
17 with Mohammed Emwazi. Also reflected in the Statement of Facts  
18 is co-defendant El Shafee Elsheikh had left several months prior  
19 to that. The defendant had also tried to leave several months  
20 prior to that but was turned back and returned to the  
21 United Kingdom. Mohammed Emwazi had also made attempts to leave  
22 London earlier than August of 2012, but he too was turned back.

23           When they finally left in August of 2012, their trek to  
24 Syria took approximately two months. The defendant, subsequent  
25 to Mohammed Emwazi's death, the killing by the United States

1 military, narrated a tribute to Mohammed Emwazi which was  
2 published in a French version of an ISIS propaganda magazine by  
3 the name of *Dar al-Islam*. It is written in the first-person,  
4 and with specificity he narrates his trek from London to Syria  
5 with Mohammed Emwazi. That information that he provides in the  
6 ISIS online propaganda magazine is contented by evidence  
7 submitted by the -- collected by the British government and  
8 British law enforcement.

9 In addition, Your Honor, when the defendant and  
10 Elsheikh, after several months in Syria did become involved in  
11 the European and American and British hostage-taking scheme,  
12 they were -- they had leadership roles within that scheme and  
13 the number of released hostages would describe their conduct -  
14 that being Mr. Kotey's, Mr. Elsheikh's - as they would engage in  
15 prolonged physical and psychological violence towards the  
16 hostages. This would include punches to the torso, causing  
17 bruises, other disfigurement. This would include choke holds,  
18 this would include other forms of physical violence.

19 During the course of the hostage taking scheme,  
20 Your Honor, the four Americans in this case - James Foley,  
21 Kayla Mueller, Steven Sotloff, Peter Kassig - were all detained  
22 during the period of November 22nd, 2012, when James Foley was  
23 detained. Mr. Foley was detained by the radical forces with  
24 John Cantley. They ultimately were transferred under the  
25 direction of this hostage-taking scheme.

1 Over the course of time, going into 2013, on April --  
2 or excuse me, August 4th of 2013, Kayla Mueller and  
3 Steven Sotloff were both abducted by the Islamic State in  
4 separate events. And then turning to October of 2013, Peter  
5 Kassig was abducted again by the Islamic State.

6 Ultimately, Your Honor, the Americans were held with  
7 various European hostages and British hostages. Throughout  
8 2013, they were moved periodically to different detention  
9 facilities. Ultimately in early 2014, February to be specific,  
10 all of the hostages were held at a facility outside of Raqqa,  
11 Syria. It was an oil production facility that the hostages  
12 would call the desert prison. At that location, all the  
13 hostages had come together, including Ms. Mueller. Ms. Mueller  
14 was held at a separate -- in the same facility, in a separate  
15 room from the men.

16 On one occasion, the defendant and Emwazi brought  
17 Ms. Mueller out of the female room where the females were  
18 detained, brought them to the male room, and had her speak to  
19 the male hostages and show herself and explain herself, and she  
20 made statements to them. That's also reflected, Your Honor, in  
21 the Statement of Facts.

22 Your Honor, after the defendant's apprehension in  
23 January of 2018, he made statements admitting his conduct in  
24 terms of being involved in the European and American  
25 hostage-taking scheme. In addition, the defendant voluntarily

1 submitted to numerous media interviews and other recorded  
2 interviews. The defendant described the conduct, the physical  
3 conduct that he and others engaged in towards the hostages as a  
4 form of controlling the hostages so that they would not try to  
5 escape or plan to escape.

6 Your Honor, during the course of the hostage-taking  
7 scheme, ransom-demand emails were sent to the victim families.  
8 Interestingly, Mr. Foley was abducted, as I said, on  
9 November 22nd, 2012; the family of Mr. Foley did not receive a  
10 ransom demand until November 26th of 2013. Your Honor, in that  
11 ransom demand, the terrorist organization introduces themselves,  
12 they announce that they have Mr. Foley, and they plainly state:  
13 "We want money fast."

14 Your Honor, they used an email address that was  
15 specifically created to communicate with the Foley family, just  
16 as they created an email address specifically to address -- to  
17 write to all the other American victim families. And the same  
18 email address would be used to communicate with the victim  
19 families throughout their negotiation process.

20 As reflected in Paragraph 24 of the Statement of Facts,  
21 Your Honor, the organization said: "James Wright Foley is being  
22 detained by us. James was detained whilst operating as a,  
23 quote, 'journalist.'" A common characteristic, Your Honor,  
24 throughout all of the ransom emails for all the victims is the  
25 clear English that is used, also frequent use of British idioms

1 and things unique to the British dialect.

2 Also on the December 2nd, 2013, email sent by the  
3 Islamic State to the family of James Foley, the organization  
4 wrote: "Our Muslim prisoners are extremely valuable to us, for  
5 verily those who are honored most are those who surrender  
6 themselves to the creator." They asked for and demanded for the  
7 Foley family, "to influence and pressure the government to  
8 release our Muslim prisoners who they have imprisoned, whether  
9 innocent or guilty, according to your laws."

10 Your Honor, also reflected in the Statement of Facts,  
11 there is a reference at the end of the negotiation period with  
12 the Foley family on August 12th, one week prior to his murder.  
13 The Islamic State stated: "We have also offered prisoner  
14 exchanges to free the Muslims currently in your detention, like  
15 our sister, Dr. Aafia Siddiqui."

16 Your Honor, the references to Aafia Siddiqui would also  
17 appear prominently in the ransom emails to Kayla Jean Mueller.  
18 I mentioned earlier that electronic devices were seized  
19 associated with the defendant upon his arrest on September 11th  
20 of 2011. In addition, British law enforcement engaged in search  
21 warrants after he left his mother's home, where they seized his  
22 laptop computer. On both electronic devices there were numerous  
23 references to Dr. Aafia Siddiqui.

24 Your Honor, in addition, again, all of the victim  
25 families received ransom emails on, for instance, as set forth

1 in the Statement of Facts in Paragraph 25, the Islamic State  
2 says: "We demand, in return for Steven's release, the release  
3 of all of our Muslim prisoners who have been detained directly  
4 or indirectly by your government."

5 As reflected in Paragraph 26, Your Honor, with respect  
6 to Peter Kassig, again, there's use of British idioms. They  
7 also state: "Use your influence, or we" -- "primarily that you  
8 influence your government however you can to release our Muslim  
9 prisoners in exchange for Peter."

10 And then as already mentioned, Your Honor, in the  
11 Kayla Mueller ransom emails, there are numerous references to  
12 releasing Muslim prisoners, including Aafia Siddiqui. In  
13 addition, Your Honor, as reflected in Paragraph 27 of the  
14 Statement of Facts, in one of the ransom demand emails to the  
15 family of Kayla Mueller, Islamic State wrote: "This is  
16 non-negotiable, as it is more beloved to us to put a bullet in  
17 her head than release her for anything less."

18 Your Honor, the four American citizens were never  
19 released by the Islamic State. James Foley was murdered by  
20 Mohammed Emwazi on or about August 19th of 2014. He was  
21 murdered. His murder was captured in an ISIS propaganda video  
22 called "A Message to America," and Mr. Foley was beheaded in  
23 that video.

24 Your Honor, there were several subsequent videos  
25 released by the Islamic State in the ensuing two or three months



1 that show, likewise, graphic murder scenes of American, British,  
2 and Japanese citizens.

3 On September 2nd of 2014, seven years ago today,  
4 Steven Sotloff appeared in an ISIS propaganda video called "A  
5 Second Message to America. He was beheaded by Mohammed Emwazi.  
6 At the end of that video, a British citizen by the name of  
7 David Haines appears. Subsequently, within a couple of weeks,  
8 Mr. Haines is then beheaded in another ISIS video. Alan Henning  
9 was also beheaded.

10 Your Honor, in November of 2014, ISIS released a longer  
11 propaganda video called, "Although the Disbelievers Dislike It."  
12 It is a particularly gruesome video that shows the murder of  
13 Syrian citizens. At the very end of that video, Mohammed Emwazi  
14 appears, and he proceeds to make his typical Anti-Western  
15 Jihadist speech to the camera. Notably, Your Honor, he is in  
16 Dabiq, Syria. In ISIS morphology, Dabiq is where the ultimate  
17 battle between the West and Islam will occur. At the conclusion  
18 of Emwazi's speech, the lifeless head of Peter Kassig appears.

19 Your Honor, during that time, Kayla Mueller had been  
20 moved from a hostage-taking cell to the captivity of another  
21 senior ISIS leader by the name of Abu Sayyaf and his wife,  
22 Umm Sayyaf. She was forcibly detained against her will. She  
23 was detained with other young females, primarily of the Yazidi  
24 faith. While in the captivity of the Sayyaf family,  
25 Abu Bakr al-Baghdadi would visit that home, and essentially

1 Ms. Mueller was committed to sexual slavery with the leader of  
2 the Islamic State.

3 In February of 2015, the Islamic State released on  
4 Twitter a notification that Ms. Mueller had been killed. The  
5 following day, they sent an email to the same ransom email  
6 address that they were using to negotiate with the Mueller  
7 family. They sent notification that in fact Ms. Mueller had  
8 been killed, and they sent photographs of a lifeless  
9 Kayla Mueller.

10 In substantial part, Your Honor, that would be the  
11 government's evidence in the case. Thank you.

12 THE COURT: All right. Mr. Kotey, return to the  
13 podium, please, sir.

14 Mr. Kotey, does that recitation of facts by the  
15 prosecutor, Mr. Fitzpatrick, true and accurate in all respects?

16 THE DEFENDANT: I've signed a Statement of Facts, and I  
17 accept the wording that is in the Statement of Facts.

18 THE COURT: All right.

19 THE DEFENDANT: So wherever, if in any circumstance he  
20 may have deviated from the Statement of Facts, then that is from  
21 himself, and we have not -- we have not sat down and discussed  
22 any of the details of the indictment, or my involvement, or of  
23 the facts themselves.

24 THE COURT: Did you participate in the hostage taking  
25 of the four American hostages?

1 THE DEFENDANT: Sorry?

2 THE COURT: Did you participate in the conspiracy to  
3 take four American hostages?

4 THE DEFENDANT: Yes.

5 THE COURT: And you know that their hostage taking,  
6 they were ill-treated and ultimately beheaded?

7 THE DEFENDANT: Yes.

8 THE COURT: And you knew that?

9 THE DEFENDANT: Yes.

10 THE COURT: And you knew that that was the likely  
11 result of their being held as hostages and ransom demands being  
12 made?

13 THE DEFENDANT: Yes.

14 THE COURT: Is that right?

15 THE DEFENDANT: That's correct.

16 THE COURT: All right. Mr. Kotey, how do you now plead  
17 to the charge against you in Count 1; that is, conspiracy to  
18 commit hostage taking resulting in death? Do you plead guilty  
19 or not guilty?

20 THE DEFENDANT: Guilty.

21 THE COURT: The Court, in the case of United States  
22 against Alexandra Amon Kotey, finds that the defendant is fully  
23 competent and capable of entering an informed plea and that your  
24 plea of guilty to Count 1 of the indictment is knowing and  
25 voluntary. And, accordingly, the government finds you guilty of

1 conspiracy to commit hostage taking resulting in death.

2 Now, Mr. Kotey, how do you plead to Count 2 of the  
3 indictment; that is, the charge against you of hostage taking  
4 resulting in the death of James Wright Foley? Do you plead  
5 guilty or not guilty?

6 THE DEFENDANT: Guilty.

7 THE COURT: The Court, in the case of United States  
8 against Alexandra Amon Kotey, how do you plead to the charge  
9 against you in Count 2 of the indictment, hostage taking  
10 resulting in the death of James Wright Foley?

11 THE DEFENDANT: Guilty.

12 THE COURT: The Court, in the case of United States  
13 against Alexandra Amon Kotey, finds that the defendant is fully  
14 competent and capable of entering an informed plea, that your  
15 plea of guilty is a knowing and a voluntary plea, and that it is  
16 supported by an independent basis in fact containing each of the  
17 elements of the offense charged in Count 2. And, accordingly,  
18 the Court finds you guilty of hostage taking resulting in the  
19 death of James Wright Foley.

20 Now, Mr. Kotey, how do you plead to the charge against  
21 you in Count; 3, that is, the charge of hostage taking resulting  
22 in the death of Kayla Jean Mueller? Do you plead guilty or not  
23 guilty?

24 THE DEFENDANT: Guilty.

25 THE COURT: All right. Again, the Court, in the case

1 of United States against Alexandra Amon Kotey, finds that the  
2 defendant is fully competent and capable of entering an informed  
3 plea, that your plea of guilty to Count 3 of the indictment is a  
4 knowing and a voluntary plea. And, accordingly, the Court  
5 accepts your plea and adjudges you now guilty of hostage taking  
6 resulting in the death of Kayla Jean Mueller.

7 Now, Mr. Kotey, how do you plead to the charge against  
8 you in Count 4, hostage taking resulting in death of  
9 Steven Joel Sotloff? Do you plead guilty or not guilty?

10 THE DEFENDANT: Guilty.

11 THE COURT: The Court, in the case of United States  
12 against Alexandra Amon Kotey, finds that the defendant is fully  
13 competent and capable of entering an informed plea, that your  
14 plea of guilty is knowing and voluntary, and that it is  
15 supported by an independent basis in fact containing each of the  
16 elements of the offense alleged against you in Count 4.  
17 Accordingly, the Court accepts your plea and adjudges you now  
18 guilty of hostage taking resulting in the death of  
19 Steven Joel Sotloff.

20 Now, Mr. Kotey, how do you plead to the charge against  
21 you in Count 5, namely hostage taking resulting in the death of  
22 Peter Edward Kassig? Do you plead guilty or not guilty?

23 THE DEFENDANT: Guilty.

24 THE COURT: The Court, in the case of United States  
25 against Alexandra Amon Kotey, finds that the defendant is fully

1 competent and capable of entering an informed plea, that your  
2 plea of guilty is knowing and voluntary, and that it is  
3 supported by an independent basis in fact containing each of the  
4 elements of the offense charged against you in Count 5.  
5 Accordingly, the Court accepts your plea and adjudges you now  
6 guilty of hostage taking resulting in the death of  
7 Peter Edward Kassig.

8 Next, Mr. Kotey, how do you now plead to the charge  
9 against you in Count 6 of the indictment; that is, a conspiracy  
10 to commit murder of United States citizens outside of the  
11 United States? Do you plead guilty or not guilty to the charge  
12 in Count 6?

13 THE DEFENDANT: Guilty.

14 THE COURT: The Court, in the case of United States  
15 against Alexandra Amon Kotey, finds that the defendant is fully  
16 competent and capable of entering an informed plea, and that  
17 your plea of guilty to Count 6 of the indictment is a knowing  
18 and a voluntary plea, and that it is supported by an independent  
19 basis in fact containing each of the elements of that charge.  
20 And, accordingly, the Court accepts your plea and adjudges you  
21 now guilty of engaging in a conspiracy to murder United States  
22 citizens outside of the United States.

23 Now, Mr. Kotey, how do you now plead to the charge  
24 against you in Count 7 of the indictment; that is, conspiracy,  
25 engaging in a conspiracy to provide material support or

1 resources to terrorists, namely hostage taking and murder,  
2 resulting in death? Do you plead guilty or not guilty?

3 THE DEFENDANT: Guilty.

4 THE COURT: The Court, in the case of United States  
5 against Alexandra Amon Kotey, finds that the defendant is fully  
6 competent and capable of entering an informed plea, that your  
7 plea in Count 7 to the indictment is knowing and voluntary and  
8 supported by an independent basis in fact. And, accordingly,  
9 the Court finds you guilty of engaging in a conspiracy to  
10 provide material support to terrorists, hostage taking, and  
11 murder, resulting in death.

12 Now, Mr. Kotey, how do you now plead to the charge  
13 against you in Count 8; that is, conspiracy to provide material  
14 support or resources to a designated foreign terrorist  
15 organization resulting in the death? Do you plead guilty or not  
16 guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: The Court, in the case of United States  
19 against Alexandra Amon Kotey, finds that the defendant is fully  
20 competent and capable of entering an informed plea, that your  
21 plea of guilty is knowing and voluntary; that is, to Count 8.  
22 And, accordingly, the Court accepts your plea and adjudges you  
23 now guilty of that charge, namely conspiracy to provide material  
24 support or resources to designated foreign terrorist  
25 organization, resulting in death.

1           Now, Mr. Kotey, the Court will order the preparation of  
2 a presentence investigation report. This is a vitally important  
3 document because it's a document on which the Court will chiefly  
4 rely in imposing an appropriate sentence. So you need to pay  
5 careful attention to the preparation of this document, and  
6 indeed you have a role to play in its preparation.

7           You will be asked by a probation officer to provide  
8 information so that the report can be prepared. You'll be asked  
9 to provide information about your family, your background, your  
10 education, your health and financial conditions, and other  
11 facts. And you may have your counsel with you when you provide  
12 that information to the probation office, and you may also, of  
13 course, have an interpreter. But you made quite clear that your  
14 English is entirely fluent. Indeed, it sounds to me like, as  
15 you say, you really were educated in England.

16           THE DEFENDANT: Yes.

17           THE COURT: And so you have no difficulty whatever in  
18 English.

19           But when the report is completed, you'll be given a  
20 copy. So will your lawyers. You'll have an opportunity to  
21 review it with them and then to call to the Court's attention  
22 any objections or any corrections you think should be made to  
23 the report. The government will also have an opportunity to  
24 register its objections or corrections. And if you dispute  
25 those offered by the government or the government disputes those



1 that you assert, then the Court will hold a hearing, and I will  
2 resolve any disputes at this hearing before imposing sentence.

3 At the time of sentencing, Mr. Kotey, you'll have the  
4 right to address the Court to say anything at all you wish to  
5 the Court by way of extenuation or mitigation, or indeed  
6 anything you think the Court should know before sentence is  
7 imposed. You won't be required to address the Court, and you've  
8 already addressed the Court to a substantial extent today. But  
9 you'll have that opportunity at the time of sentencing.

10 And, of course, your counsel, one of your counsel, will  
11 have an opportunity to address the Court on your behalf. Not  
12 all of them.

13 I will set sentencing --

14 MS. MERTZ: Your Honor, if I may, the parties have  
15 discussed sentencing dates. I think both parties are in some  
16 agreement that this sentencing may take longer than usual to  
17 prepare for both sides.

18 THE COURT: I don't think it would take longer than the  
19 4th of February, do you?

20 MS. MERTZ: Your Honor, we had discussed March 3rd,  
21 although I think both parties are available --

22 THE COURT: All right. I'll accommodate that. He's  
23 incarcerated. March 3rd.

24 MS. MERTZ: Thank you, Your Honor.

25 MR. FITZPATRICK: Just a note, Your Honor. We asked

1 for a Thursday because we anticipate it may be a longer  
2 sentencing than usual. So March 3rd is a Thursday.

3 THE COURT: Oh, I see. Well, no, it will be March 4th,  
4 and I'll ensure there's plenty of time.

5 MR. FITZPATRICK: Thank you, Your Honor.

6 THE COURT: I'm not here all day every Thursday unless  
7 I'm in a trial.

8 MR. FITZPATRICK: I understand, Your Honor.

9 THE COURT: All right. Anything further to be  
10 accomplished in this matter today?

11 MR. FITZPATRICK: No, Your Honor. Thank you.

12 THE COURT: On behalf of the defendant, Ms. Mertz?

13 MS. MERTZ: No, Your Honor. Thank you.

14 THE COURT: The families of the victims are here. I've  
15 set the sentencing. At the time of the sentencing, each family  
16 will have the right to address the Court at that time. I'll  
17 hear from all of you or just one of the four. It doesn't  
18 matter. You all have -- you each have the right to address the  
19 Court, and you will be fully heard at that time.

20 If you have any questions, you should address those to  
21 Mr. Fitzpatrick. It is important that this hearing be on the  
22 public record. There will be a transcript available at some  
23 point in time, and you're perfectly entitled to request a copy  
24 of that transcript, which you should do through Mr. Fitzpatrick.  
25 And if you have any questions, you should address those to

1 Mr. Fitzpatrick.

2 All right. Anything further in this matter today from,  
3 let me ask once again, from the government?

4 MR. FITZPATRICK: No, Your Honor. Thank you.

5 THE COURT: From the defendant, Ms. Mertz?

6 MS. MERTZ: No, Your Honor.

7 THE COURT: All right. I thank counsel for your  
8 cooperation, and I will see this matter again, what date did I  
9 say, March 4th.

10 MR. FITZPATRICK: Correct, Your Honor.

11 THE COURT: March 4. And I'll set it for March 4th --  
12 let me set it for March 4th at 1 p.m.

13 MR. FITZPATRICK: Thank you, Your Honor.

14 THE COURT: And I will devote the afternoon to it, if  
15 needed.

16 All right. I thank counsel, and Court will stand in  
17 recess until tomorrow morning at 9 o'clock.

18 (Off the record at 7:24 p.m.)  
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20  
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23  
24  
25

**CERTIFICATE OF OFFICIAL COURT REPORTER**

I, Rebecca Stonestreet, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

\_\_//Rebecca Stonestreet//\_\_

\_\_10/4/21\_\_

**SIGNATURE OF COURT REPORTER**

**DATE**